

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

NICHOLAS A NAVARRETTE,

Case No. 2:21-cv-01565-JAD-VCF

Plaintiff

V.

CHARLES DANIELS, et. al.,

Order Dismissing and Closing Case

Defendants

On August 23, 2021, I ordered Plaintiff Nicholas A. Navarrette to either pay the filing fee

10 or file a complete *in forma pauperis* application by October 20, 2021.¹ That deadline expired

11 without an application or payment of the filing fee, so I dismiss and close this case.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.² A court may dismiss an action based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules.³ In determining whether to dismiss an action on one of these grounds, the court must consider: (1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the

¹ ECF No. 1 at 8.

²⁰ ² *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

³ See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

1 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the
 2 availability of less drastic alternatives.⁴

3 The first two factors, the public's interest in expeditiously resolving this litigation and the
 4 court's interest in managing its docket, weigh in favor of dismissal of the plaintiff's claims. The
 5 third factor, risk of prejudice to defendants, also weighs in favor of dismissal because a
 6 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading
 7 ordered by the court or prosecuting an action.⁵ A court's warning to a party that its failure to
 8 obey the court's order will result in dismissal satisfies the fifth factor's "consideration of
 9 alternatives" requirement,⁶ and that warning was given here.⁷ The fourth factor—the public
 10 policy favoring disposition of cases on their merits—is greatly outweighed by the factors
 11 favoring dismissal.

12 IT IS THEREFORE ORDERED that **THIS ACTION IS DISMISSED** without prejudice
 13 based on the plaintiff's failure to file a complete application to proceed *in forma pauperis* or pay
 14 the filing fee as ordered. The Clerk of Court is directed to **ENTER JUDGMENT** accordingly
 15 and **CLOSE THIS CASE**. **No other documents may be filed in this now-closed case.** If
 16 Navarrette wishes to pursue his claims, he must file a complaint in a new case, and he must
 17 either pay the filing fee or file a complete *in forma pauperis* application in that new case.

18 Dated: October 21, 2021



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U.S. District Judge Jennifer A. Dorsey

21⁴ *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;
 22 *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

23⁵ See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

⁶ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

⁷ ECF No. 1 at 8.